

LEGISLATIVE BILL 238

Approved by the Governor March 22, 2005

Introduced by Combs, 32

AN ACT relating to workers' compensation; to amend sections 48-115, 48-118, 48-120, 48-125, 48-126, 48-136, 48-144.01, 48-144.03, 48-144.04, 48-145, 48-146, 48-146.03, 48-155.01, 48-178, 48-178.01, and 48-1,117, Reissue Revised Statutes of Nebraska; to change provisions relating to compensation coverage, terminology, computation of interest, first injury reports, policy cancellation or nonrenewal, self-insurers, and acting judges; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 48-115, Reissue Revised Statutes of Nebraska, is amended to read:

48-115. The terms employee and worker are used interchangeably and have the same meaning throughout the Nebraska Workers' Compensation Act. Such terms include the plural and all ages and both sexes. For purposes of the act, employee or worker shall be construed to mean:

(1) Every person in the service of the state or of any governmental agency created by it, including the Nebraska National Guard and members of the military forces of the State of Nebraska, under any appointment or contract of hire, expressed or implied, oral or written;

(2) Every person in the service of an employer who is engaged in any trade, occupation, business, or profession as described in section 48-106 under any contract of hire, expressed or implied, oral or written, including aliens and also including minors. Minors for the purpose of making election of remedies under the Nebraska Workers' Compensation Act shall have the same power of contracting and electing as adult employees.

As used in subdivisions (1) through (11) of this section, the terms employee and worker shall not be construed to include any person whose employment is not in the usual course of the trade, business, profession, or occupation of his or her employer.

If an employee subject to the Nebraska Workers' Compensation Act suffers an injury on account of which he or she or, in the event of his or her death, his or her dependents would otherwise have been entitled to the benefits provided by such act, the employee or, in the event of his or her death, his or her dependents shall be entitled to the benefits provided under such act, if the injury or injury resulting in death occurred within this state, or if at the time of such injury (a) the employment was principally localized within this state, (b) the employer was performing work within this state, or (c) the contract of hire was made within this state;

(3) Volunteer firefighters of any fire department of any rural or suburban fire protection district, city, village, or nonprofit corporation, which fire department is organized under the laws of the State of Nebraska. Such volunteers shall be deemed employees of such rural or suburban fire protection district, city, village, or nonprofit corporation while in the performance of their duties as members of such department and shall be considered as having entered and as acting in the regular course and scope of their employment from the instant such persons commence responding to a call to active duty, whether to a fire station or other place where firefighting equipment that their company or unit is to use is located or to any activities that the volunteer firefighters may be directed to do by the chief of the fire department or some person authorized to act for such chief. Such volunteers shall be deemed employees of such rural or suburban fire protection district, city, village, or nonprofit corporation until their return to the location from which they were initially called to active duty or until they engage in any activity beyond the scope of the performance of their duties, whichever occurs first.

Members of such volunteer fire department, before they are entitled to benefits under the Nebraska Workers' Compensation Act, shall be recommended by the chief of the fire department or some person authorized to act for such chief for membership therein to the board of directors of the rural or suburban fire protection district or nonprofit corporation, the mayor and city commission, the mayor and council, or the chairperson and board of trustees, as the case may be, and upon confirmation shall be deemed employees of such entity. Members of such fire department after confirmation to membership may be removed by a majority vote of the entity's board of directors or governing

body and thereafter shall not be considered employees of such entity. Firefighters of any fire department of any rural or suburban fire protection district, nonprofit corporation, city, or village shall be considered as acting in the performance and within the course and scope of their employment when performing activities outside of the corporate limits of their respective districts, cities, or villages, but only if directed to do so by the chief of the fire department or some person authorized to act for such chief;

(4) Members of the Nebraska Emergency Management Agency, any city, village, county, or interjurisdictional emergency management organization, or any state emergency response team, which agency, organization, or team is regularly organized under the laws of the State of Nebraska. Such members shall be deemed employees of such agency, organization, or team while in the performance of their duties as members of such agency, organization, or team;

(5) Any person fulfilling conditions of probation, or community service as defined in section 29-2277, pursuant to any order of any court of this state who shall be working for a governmental body, or agency as defined in section 29-2277, pursuant to any condition of probation, or community service as defined in section 29-2277. Such person shall be deemed an employee of the governmental body or agency for the purposes of the Nebraska Workers' Compensation Act;

(6) Volunteer ambulance drivers and attendants and out-of-hospital emergency care providers who are members of an emergency medical service for any county, city, village, rural or suburban fire protection district, nonprofit corporation, or any combination of such entities under the authority of section 13-303. Such volunteers shall be deemed employees of such entity or combination thereof while in the performance of their duties as ambulance drivers or attendants or out-of-hospital emergency care providers and shall be considered as having entered into and as acting in the regular course and scope of their employment from the instant such persons commence responding to a call to active duty, whether to a hospital or other place where the ambulance they are to use is located or to any activities that the volunteer ambulance drivers or attendants or out-of-hospital emergency care providers may be directed to do by the chief or some person authorized to act for such chief of the volunteer ambulance service or out-of-hospital emergency care service. Such volunteers shall be deemed employees of such county, city, village, rural or suburban fire protection district, nonprofit corporation, or combination of such entities until their return to the location from which they were initially called to active duty or until they engage in any activity beyond the scope of the performance of their duties, whichever occurs first. Before such volunteer ambulance drivers or attendants or out-of-hospital emergency care providers are entitled to benefits under the Nebraska Workers' Compensation Act, they shall be recommended by the chief or some person authorized to act for such chief of the volunteer ambulance service or out-of-hospital emergency care service for membership therein to the board of directors of the rural or suburban fire protection district or nonprofit corporation, the governing body of the county, city, or village, or combination thereof, as the case may be, and upon such confirmation shall be deemed employees of such entity or combination thereof. Members of such volunteer ambulance or out-of-hospital emergency care service after confirmation to membership may be removed by majority vote of the entity's board of directors or governing body and thereafter shall not be considered employees of such entity. Volunteer ambulance drivers and attendants and out-of-hospital emergency care providers for any county, city, village, rural or suburban fire protection district, nonprofit corporation, or any combination thereof shall be considered as acting in the performance and within the course and scope of their employment when performing activities outside of the corporate limits of their respective county, city, village, or district, but only if directed to do so by the chief or some person authorized to act for such chief;

(7) Members of a law enforcement reserve force appointed in accordance with section 81-1438. Such members shall be deemed employees of the county or city for which they were appointed;

(8) Any offender committed to the Department of Correctional Services who is employed pursuant to section 81-1827. Such offender shall be deemed an employee of the Department of Correctional Services solely for purposes of the Nebraska Workers' Compensation Act;

(9) An executive officer of a corporation elected or appointed under the provisions or authority of the charter, articles of incorporation, or bylaws of such corporation who owns less than twenty-five percent of the common stock of such corporation or an executive officer of a nonprofit corporation elected or appointed under the provisions or authority of the charter, articles of incorporation, or bylaws of such corporation who receives

annual compensation of more than one thousand dollars from such corporation. Such executive officer shall be an employee of such corporation under the Nebraska Workers' Compensation Act.

An executive officer of a corporation who owns twenty-five percent or more of the common stock of such corporation or an executive officer of a nonprofit corporation who receives annual compensation of one thousand dollars or less from such corporation shall not be construed to be an employee of the corporation under the Nebraska Workers' Compensation Act unless such executive officer elects to bring himself or herself within the provisions of the act. Such election shall be in writing and filed with the secretary of the corporation and with the workers' compensation insurer. Such election shall be effective upon receipt by the insurer for the current policy and subsequent policies issued by such insurer and shall remain in effect until the election is terminated, in writing, by the officer and the termination is filed with the insurer or until the insurer ceases to provide coverage for the corporation, whichever occurs first. Any such termination of election shall also be filed with the secretary of the corporation. If such an executive officer has not elected to bring himself or herself within the provisions of the act pursuant to this subdivision and a health, accident, or other insurance policy covering such executive officer contains an exclusion of coverage if the insured executive officer is otherwise entitled to workers' compensation coverage, such exclusion is null and void as to such executive officer.

It is the intent of the Legislature that the changes made to this subdivision by Laws 2002, LB 417, shall apply to policies of insurance against liability arising under the act with an effective date on or after January 1, 2003, but shall not apply to any such policy with an effective date prior to January 1, 2003;

(10) Each individual employer, partner, limited liability company member, or self-employed person who is actually engaged in the individual employer's, partnership's, limited liability company's, or self-employed person's business on a substantially full-time basis who elects to bring himself or herself within the provisions of the Nebraska Workers' Compensation Act. ~~Such election is made if he or she (a) files with his or her current workers' compensation insurer written notice of election to have the same rights as an employee only for purposes of workers' compensation insurance coverage acquired by and for such individual employer, partner, limited liability company member, or self-employed person or (b) gives notice of such election and such insurer collects a premium for such coverage acquired by and for such individual employer, partner, limited liability company member, or self-employed person. This election shall be effective from the date of receipt by the insurer for the current policy and subsequent policies issued by such insurer until such time as such employer, partner, limited liability company member, or self-employed person files a written statement withdrawing such election with the current workers' compensation insurer or until such coverage by such insurer is terminated, whichever occurs first. When so included, the individual employer, partner, limited liability company member, or self-employed person shall have the same rights as an employee only with respect to the benefits provided under the Nebraska Workers' Compensation Act. Such election shall be in writing and filed with the workers' compensation insurer. Such election shall be effective upon receipt by the insurer for the current policy and subsequent policies issued by such insurer and shall remain in effect until the election is terminated, in writing, by such person and the termination is filed with the insurer or until the insurer ceases to provide coverage for the business, whichever occurs first. If any individual employer, partner, limited liability company member, or self-employed such person who is actually engaged in the individual employer's, partnership's, limited liability company's, or self-employed person's business on a substantially full-time basis has not elected to bring himself or herself within the provisions of the Nebraska Workers' Compensation Act pursuant to this subdivision and any a health, accident, or other insurance policy covering such person contains an exclusion of coverage if the insured such person is otherwise entitled to workers' compensation coverage, such exclusion shall be null and void as to such person; and~~

(11) An individual lessor of a commercial motor vehicle leased to a motor carrier and driven by such individual lessor who elects to bring himself or herself within the provisions of the Nebraska Workers' Compensation Act. Such election is made if he or she agrees in writing with the motor carrier to have the same rights as an employee only for purposes of workers' compensation coverage maintained by the motor carrier. For an election under this subdivision, the motor carrier's principal place of business must be in this state and the motor carrier must be authorized to self-insure liability under

the Nebraska Workers' Compensation Act. Such an election shall (a) be effective from the date of such written agreement until such agreement is terminated, (b) be enforceable against such self-insured motor carrier in the same manner and to the same extent as claims arising under the Nebraska Workers' Compensation Act by employees of such self-insured motor carrier, and (c) not be deemed to be a contract of insurance for purposes of Chapter 44. Section 48-111 shall apply to the individual lessor and the self-insured motor carrier with respect to personal injury or death caused to such individual lessor by accident or occupational disease arising out of and in the course of performing services for such self-insured motor carrier in connection with such lease while such election is effective.

Sec. 2. Section 48-118, Reissue Revised Statutes of Nebraska, is amended to read:

48-118. When a third person is liable to the employee or to the dependents, for the injury or death, the employer shall be subrogated to the right of the employee or to the dependents against such third person, and the recovery by such employer shall not be limited to the amount payable as compensation to such employee or dependents, but such employer may recover any amount which such employee or his or her dependents should have been entitled to recover. Any recovery by the employer against such third person, in excess of the compensation paid by the employer after deducting the expenses of making such recovery, shall be paid forthwith to the employee or to the dependents, and shall be treated as an advance payment by the employer, on account of any future installments of compensation. Nothing in the Nebraska Workers' Compensation Act shall be construed to deny the right of an injured employee or of his or her personal representative to bring suit against such third person in his or her own name or in the name of the personal representative based upon such liability, but in such event an employer having paid or paying compensation to such employee or his or her dependents shall be made a party to the suit for the purpose of reimbursement, under the above provided right of subrogation, of any compensation paid. Before the making of a claim or the bringing of suit against such third person by the employee or his or her personal representative or by the employer or his or her workers' compensation insurer, each shall give to all others, unless waived in writing, notice of not less than thirty days, by certified or registered mail, an opportunity to join in the making of such claim or the instituting of an action and to be represented by counsel. If a party entitled to notice cannot be found, the clerk of the ~~Nebraska Workers' Compensation Court~~ compensation court shall become the agent of such party for the giving of such notice as required in this section, and the notice when given to the clerk of the ~~Nebraska Workers' Compensation Court~~ compensation court shall include an affidavit setting forth the facts, including the steps taken to locate such party. After the expiration of thirty days, for failure to receive notice or other good cause shown, the district court before which the action is pending shall allow either party to intervene in such action, and if no action is pending then the district court in which it could be brought shall allow either party to commence such action. Each shall have an equal voice in the claim and the prosecution of such suit and any dispute arising shall be passed upon by the court before which the case is pending and if no action is pending then by the district court in which such action could be brought. If either party after the giving of such notice fails, by and through his or her attorney, to join in the making of such claim and the prosecuting of the suit, such party shall waive any and all claims or causes of action for improper prosecution of such suit or inadequacy of a settlement made in accordance herewith, and the party bringing the claim or prosecuting the suit shall be entitled to deduct from any amount recovered the reasonable expenses of making such recovery, including a reasonable sum for attorney's fees, which expenses and attorney's fees shall be prorated to the amounts payable to the employer or his or her workers' compensation insurer under the above right of subrogation and to the amount in excess of such amount payable to the employer or his or her workers' compensation insurer under his or her right of subrogation, and which expenses and attorney's fees shall be apportioned by the court between the parties as their interests appear at the time of such recovery. If either party makes the claim or prosecutes such action without the giving of a notice to the other party, the party bringing the claim and prosecuting such action shall not deduct expenses or attorney's fees from the amount payable to the other party.

If the employee or his or her personal representative or the employer or his or her workers' compensation insurer join in the prosecuting of such claim and are represented by counsel, the reasonable expenses and the attorney's fees shall be, unless otherwise agreed upon, divided between such attorneys as directed by the court before which the case is pending and if no

action is pending then by the district court in which such action could be brought. A settlement of any lawsuit commenced under this section shall be void unless (1) such settlement is agreed upon in writing by the employee or his or her personal representative and the workers' compensation insurer of the employer if there is one, and if there is no workers' compensation insurer, then by the employer, or (2) in the absence of such agreement, the court before which the action is pending determines that the settlement offer is fair and reasonable considering liability, damages, and the ability of the third person and his or her liability insurance carrier to satisfy any judgment.

If the employee or his or her personal representative and the workers' compensation insurer of the employer if there is one, and if there is no insurer, then the employer, do not agree in writing upon distribution of the proceeds of any judgment or settlement, the court upon application shall order a fair and equitable distribution of the proceeds of any judgment or settlement.

In any case in which an injured employee is entitled to benefits from the Workers' Compensation Trust Fund for injuries occurring before December 1, 1997, as provided in section 48-128 and recovery is had against the third party liable to the employee for the injury, the Workers' Compensation Trust Fund shall be subrogated to the rights of the employee against such third party to the extent of the benefits due to him or her or which shall become due to him or her from such fund, subject to the rights of the employer and his or her workers' compensation insurer.

Sec. 3. Section 48-120, Reissue Revised Statutes of Nebraska, is amended to read:

48-120. (1) The employer is liable for all reasonable medical, surgical, and hospital services, including plastic surgery or reconstructive surgery but not cosmetic surgery when the injury has caused disfigurement, appliances, supplies, prosthetic devices, and medicines as and when needed, which are required by the nature of the injury and which will relieve pain or promote and hasten the employee's restoration to health and employment, and includes damage to or destruction of artificial members, dental appliances, teeth, hearing aids, and eyeglasses, but, in the case of dental appliances, hearing aids, or eyeglasses, only if such damage or destruction resulted from an accident which also caused personal injury entitling the employee to compensation therefor for disability or treatment, subject to the approval of and regulation by the Nebraska Workers' Compensation Court, not to exceed the regular charge made for such service in similar cases.

The compensation court may establish schedules of maximum fees for such services. If the compensation court establishes such a schedule, it shall publish and furnish such schedule to the public. The compensation court shall review such schedule at least biennially and adopt appropriate changes when necessary. The compensation court may contract with any person, firm, corporation, organization, or government agency to secure adequate data to establish such fees. The provider or supplier of such services shall not collect or attempt to collect from any employer, insurer, government, or injured employee or dependent or the estate of any injured or deceased employee any amount in excess of the maximum fee established by the compensation court for any such service. The compensation court shall establish and charge a fee to recover the cost of published fee schedules. Notwithstanding any other provision of this section, the compensation court may exclude from the application of such schedules those services performed under a managed care plan certified pursuant to section 48-120.02.

(2) (a) The employee has the right to select a physician who has maintained the employee's medical records prior to an injury and has a documented history of treatment with the employee prior to an injury or a physician who has maintained the medical records of an immediate family member of the employee prior to an injury and has a documented history of treatment with an immediate family member of the employee prior to an injury. For purposes of this subsection, immediate family member means the employee's spouse, children, parents, stepchildren, and stepparents. The employer shall notify the employee following an injury of such right of selection in a form and manner and within a timeframe established by the compensation court. If the employer fails to notify the employee of such right of selection or fails to notify the employee of such right of selection in a form and manner and within a timeframe established by the compensation court, then the employee has the right to select a physician. If the employee fails to exercise such right of selection in a form and manner and within a timeframe established by the compensation court following notice by the employer pursuant to this subsection, then the employer has the right to select the physician. If selection of the initial physician is made by the employee or employer

pursuant to this subsection following notice by the employer pursuant to this subsection, the employee or employer shall not change the initial selection of physician made pursuant to this subsection unless such change is agreed to by the employee and employer or is ordered by the compensation court pursuant to subsection (6) of this section. If compensability is denied by the workers' compensation insurer, risk management pool, or self-insured employer, (i) the employee has the right to select a physician and shall not be made to enter a managed care plan and (ii) the employer is liable for medical, surgical, and hospital services subsequently found to be compensable. If the employer has exercised the right to select a physician pursuant to this subsection and if the compensation court subsequently orders reasonable medical services previously refused to be furnished to the employee by the physician selected by the employer, the compensation court shall allow the employee to select another physician to furnish further medical services. If the employee selects a physician located in a community not the home or place of work of the employee and a physician is available in the local community or in a closer community, no travel expenses shall be required to be paid by the employer or his or her workers' compensation insurer.

(b) In cases of injury requiring dismemberment or injuries involving major surgical operation, the employee may designate to his or her employer the physician or surgeon to perform the operation.

(c) If the injured employee unreasonably refuses or neglects to avail himself or herself of medical or surgical treatment furnished by the employer, except as herein and otherwise provided, the employer is not liable for an aggravation of such injury due to such refusal and neglect and the compensation court or judge thereof may suspend, reduce, or limit the compensation otherwise payable under the Nebraska Workers' Compensation Act.

(d) If, due to the nature of the injury or its occurrence away from the employer's place of business, the employee or the employer is unable to select a physician using the procedures provided by this subsection, the selection requirements of this subsection shall not apply as long as the inability to make a selection persists.

(e) The physician selected may arrange for any consultation, referral, or extraordinary or other specialized medical services as the nature of the injury requires.

(f) The employer is not responsible for medical services furnished or ordered by any physician or other person selected by the employee in disregard of this section. Except as otherwise provided by the Nebraska Workers' Compensation Act, the employer is not liable for medical, surgical, or hospital services or medicines if the employee refuses to allow them to be furnished by the employer.

(3) No claim for such medical treatment is valid and enforceable unless, within fourteen days following the first treatment, the physician giving such treatment furnishes the employer a report of such injury and treatment on a form prescribed by the compensation court. The compensation court may excuse the failure to furnish such report within fourteen days when it finds it to be in the interest of justice to do so.

(4) All physicians and other providers of medical services attending injured employees shall comply with all the rules and regulations adopted and promulgated by the ~~Nebraska Workers' Compensation Court~~ compensation court and shall make such reports as may be required by it at any time and at such times as required by it upon the condition or treatment of any injured employee or upon any other matters concerning cases in which they are employed. ~~Generally, all~~ All medical and hospital information relevant to the particular injury shall, on demand, be made available to the employer, the employee, the ~~carrier~~ workers' compensation insurer, and the compensation court. The party requesting such medical and hospital information shall pay the cost thereof. No such relevant information developed in connection with treatment or examination for which compensation is sought shall be considered a privileged communication for purposes of a workers' compensation claim. When a physician or other provider of medical services willfully fails to make any report required of him or her under this section, the compensation court may order the forfeiture of his or her right to all or part of payment due for services rendered in connection with the particular case.

(5) Whenever the ~~Nebraska Workers' Compensation Court~~ compensation court deems it necessary, in order to assist it in resolving any issue of medical fact or opinion, it shall cause the employee to be examined by a physician or physicians selected by the compensation court and obtain from such physician or physicians a report upon the condition or matter which is the subject of inquiry. The compensation court may charge the cost of such examination to the ~~carrier~~ workers' compensation insurer. The cost of such examination shall include the payment to the employee of all necessary and

reasonable expenses incident to such examination, such as transportation and loss of wages.

(6) The ~~Nebraska Workers' Compensation Court~~ compensation court shall have the authority to determine the necessity, character, and sufficiency of any medical services furnished or to be furnished and shall have authority to order a change of physician, hospital, rehabilitation facility, or other medical services when it deems such change is desirable or necessary. Any dispute regarding medical, surgical, or hospital services furnished or to be furnished under this section may be submitted by the parties, the supplier of such service, or the compensation court on its own motion for informal dispute resolution by a staff member of the compensation court or an outside mediator pursuant to section 48-168. In addition, any party or the compensation court on its own motion may submit such a dispute for a medical finding by an independent medical examiner pursuant to section 48-134.01. Issues submitted for informal dispute resolution or for a medical finding by an independent medical examiner may include, but are not limited to, the reasonableness and necessity of any medical treatment previously provided or to be provided to the injured employee. The compensation court may adopt and promulgate rules and regulations regarding informal dispute resolution or the submission of disputes to an independent medical examiner that are considered necessary to effectuate the purposes of this section.

(7) For the purpose of this section, physician has the same meaning as in section 48-151.

(8) The ~~Nebraska Workers' Compensation Court~~ compensation court shall order the employer to make payment directly to the supplier of any services provided for in this section or reimbursement to anyone who has made any payment to the supplier for services provided in this section. No such supplier or payor may be made or become a party to any action before the compensation court.

(9) Notwithstanding any other provision of this section, ~~an~~ a workers' compensation insurer, a risk management pool, or a self-insured employer may contract for medical, surgical, hospital, and rehabilitation services to be provided through a managed care plan certified pursuant to section 48-120.02. Once liability for medical, surgical, and hospital services has been accepted or determined, the employer may require that employees subject to the contract receive medical, surgical, and hospital services in the manner prescribed in the contract, except that an employee may receive services from a physician selected by the employee pursuant to subsection (2) of this section if the physician so selected agrees to refer the employee to the managed care plan for any other treatment that the employee may require and if the physician so selected agrees to comply with all the rules, terms, and conditions of the managed care plan. If compensability is denied by the workers' compensation insurer, risk management pool, or self-insured employer, the employee may leave the managed care plan and the employer is liable for medical, surgical, and hospital services previously provided. The workers' compensation insurer, risk management pool, or self-insured employer shall give notice to employees subject to the contract of eligible service providers and such other information regarding the contract and manner of receiving medical, surgical, and hospital services under the managed care plan as the compensation court may prescribe.

Sec. 4. Section 48-125, Reissue Revised Statutes of Nebraska, is amended to read:

48-125. (1) Except as hereinafter provided, all amounts of compensation payable under the Nebraska Workers' Compensation Act shall be payable periodically in accordance with the methods of payment of wages of the employee at the time of the injury or death, except that fifty percent shall be added for waiting time for all delinquent payments after thirty days' notice has been given of disability or after thirty days from the entry of a final order, award, or judgment of the compensation court. Such payments shall be sent directly to the person entitled to compensation or his or her designated representative except as otherwise provided in section 48-149. Whenever the employer refuses payment of compensation or medical payments subject to section 48-120, or when the employer neglects to pay compensation for thirty days after injury or neglects to pay medical payments subject to such section after thirty days' notice has been given of the obligation for medical payments, and proceedings are held before the Nebraska Workers' Compensation Court, a reasonable attorney's fee shall be allowed the employee by the compensation court in all cases when the employee receives an award. Attorney's fees allowed shall not be deducted from the amounts ordered to be paid for medical services nor shall attorney's fees be charged to the medical providers. If the employer files an application for review before the compensation court from an award of a judge of the compensation court and

fails to obtain any reduction in the amount of such award, the compensation court shall allow the employee a reasonable attorney's fee to be taxed as costs against the employer for such review, and the Court of Appeals or Supreme Court shall in like manner allow the employee a reasonable sum as attorney's fees for the proceedings in the Court of Appeals or Supreme Court. If the employee files an application for a review before the compensation court from an order of a judge of the compensation court denying an award and obtains an award or if the employee files an application for a review before the compensation court from an award of a judge of the compensation court when the amount of compensation due is disputed and obtains an increase in the amount of such award, the compensation court may allow the employee a reasonable attorney's fee to be taxed as costs against the employer for such review, and the Court of Appeals or Supreme Court may in like manner allow the employee a reasonable sum as attorney's fees for the proceedings in the Court of Appeals or Supreme Court. A reasonable attorney's fee allowed pursuant to this section shall not affect or diminish the amount of the award.

(2) When an attorney's fee is allowed pursuant to this section, there shall further be assessed against the employer an amount of interest on the final award obtained, computed from the date compensation was payable, as provided in section 48-119, until the date payment is made by the employer, at a rate equal to the rate of interest allowed per annum under section 45-104.01, as such rate may from time to time be adjusted by the Legislature. Interest shall apply only to those weekly compensation benefits awarded which have accrued at the time as of the date payment is made by the employer. If the employer pays or tenders payment of compensation, the amount of compensation due is disputed, and the award obtained is greater than the amount paid or tendered by the employer, the assessment of interest shall be determined solely upon the difference between the amount awarded and the amount tendered or paid.

Sec. 5. Section 48-126, Reissue Revised Statutes of Nebraska, is amended to read:

48-126. Wherever in the Nebraska Workers' Compensation Act the term wages is used, it shall be construed to mean the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the accident. It shall not include gratuities received from the employer or others, nor shall it include board, lodging, or similar advantages received from the employer, unless the money value of such advantages shall have been fixed by the parties at the time of hiring, except that if the ~~insurance carrier~~ workers' compensation insurer shall have collected a premium based upon the value of such board, lodging, and similar advantages, then the value thereof shall become a part of the basis of determining compensation benefits. In occupations involving seasonal employment or employment dependent upon the weather, the employee's weekly wages shall be taken to be one-fiftieth of the total wages which he or she has earned from all occupations during the year immediately preceding the accident, unless it be shown that during such year, by reason of exceptional causes, such method of computation does not fairly represent the earnings of the employee. In such a case, the period for calculation shall be extended so far as to give a basis for the fair ascertainment of his or her average weekly earnings. In continuous employments, if immediately prior to the accident the rate of wages was fixed by the day or hour or by the output of the employee, his or her weekly wages shall be taken to be his or her average weekly income for the period of time ordinarily constituting his or her week's work, and using as the basis of calculation his or her earnings during as much of the preceding six months as he or she worked for the same employer, except as provided in sections 48-121 and 48-122. The calculation shall also be made with reference to the average earnings for a working day of ordinary length and exclusive of earnings from overtime, except ~~+ PROVIDED,~~ that if the insurance company's policy of insurance provides for the collection of a premium based upon such overtime, then such overtime shall become a part of the basis of determining compensation benefits.

Sec. 6. Section 48-136, Reissue Revised Statutes of Nebraska, is amended to read:

48-136. The interested parties shall have the right to settle all matters of compensation between themselves with the consent of the ~~insurance carrier~~ workers' compensation insurer, if any, and in accordance with the Nebraska Workers' Compensation Act. A + PROVIDED, ~~that~~ a copy of such settlement, duly verified by all parties, shall be filed with the Nebraska Workers' Compensation Court and no such settlement shall be binding unless the settlement is in accordance with such act.

Sec. 7. Section 48-144.01, Reissue Revised Statutes of Nebraska, is amended to read:

48-144.01. (1) In every case of reportable injury occurring arising out of and in the course of employment, the employer or insurance carrier workers' compensation insurer shall file a report thereof with the Nebraska Workers' Compensation Court. Such report shall be filed within ten days after the employer or insurer has been given notice of or has knowledge of the injury.

(2) For purposes of this section:

(a) Reportable injury means an injury or diagnosed occupational disease which results in: (i) Death, regardless of the time between the death and the injury or onset of disease; (ii) time away from work; (iii) restricted work or termination of employment; (iv) loss of consciousness; or (v) medical treatment other than first aid;

(b) Restricted work means the inability of the employee to perform one or more of the duties of his or her normal job assignment. Restricted work does not occur if the employee is able to perform all of the duties of his or her normal job assignment, but a work restriction is assigned because the employee is experiencing minor musculoskeletal discomfort and for the purpose of preventing a more serious condition from developing;

(c) Medical treatment means treatment administered by a physician or other licensed health care professional; and

(d) First aid means:

(i) Using a nonprescription medication at nonprescription strength. For medications available in both prescription and nonprescription form, a recommendation by a physician or other licensed health care professional to use a nonprescription medication at prescription strength is not first aid;

(ii) Administering tetanus immunizations. Administering other immunizations, such as hepatitis B vaccine and rabies vaccine, is not first aid;

(iii) Cleaning, flushing, or soaking wounds on the surface of the skin;

(iv) Using wound coverings, such as bandages and gauze pads, and superficial wound closing devices, such as butterfly bandages and steri-strips. Using other wound closing devices, such as sutures and staples, is not first aid;

(v) Using hot or cold therapy;

(vi) Using any nonrigid means of support, such as elastic bandages, wraps, and nonrigid back belts. Using devices with rigid stays or other systems designed to immobilize parts of the body is not first aid;

(vii) Using temporary immobilization devices, such as splints, slings, neck collars, and back boards, while transporting accident victims;

(viii) Drilling of a fingernail or toenail to relieve pressure or draining fluid from a blister;

(ix) Using eye patches;

(x) Removing foreign bodies from the eye using only irrigation or a cotton swab;

(xi) Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs, or other simple means;

(xii) Using finger guards;

(xiii) Using massages. Using physical therapy or chiropractic treatment is not first aid; and

(xiv) Drinking fluids for relief of heat stress. Such report shall be filed within forty-eight hours in case of each injury resulting in either a death or in the hospitalization of five or more employees from one accident and within seven days in case of all other reportable injuries after the employer or insurance carrier has been given notice or has knowledge of any such injury. Reportable injuries are any occupational injuries or illnesses which result in: (1) Fatalities regardless of the time between the injury and death, or the length of the illness; (2) lost workday cases, other than fatalities that result in lost workdays; or (3) nonfatal cases without lost workdays which result in transfer to another job or termination of employment, or require medical treatment, or involve loss of consciousness or restriction of work or motion and include any diagnosed occupational illnesses which are reported to the employer but which are not classified as fatalities or lost workday cases. Medical treatment as used in this section shall include treatment administered by a physician or by registered professional personnel under the standing orders of a physician but shall not include first-aid treatment such as one-time treatment and subsequent observation of minor scratches, cuts, burns, and splinters which do not ordinarily require medical care even though provided by a physician or registered professional personnel. Lost workdays as used in this section shall mean the number of days, whether consecutive or not, after but not including the day of injury or illness during which the employee would have worked but could not do so or could not

perform all or any part of his or her normal assignment during all or any part of the workday or shift, because of the occupational injury or illness.

Sec. 8. Section 48-144.03, Reissue Revised Statutes of Nebraska, is amended to read:

48-144.03. (1)(a) If an insurer intends to cancel a contract or policy of insurance issued by the insurer under the Nebraska Workers' Compensation Act within the contract or policy period, the insurer shall give notice to such effect to the Nebraska Workers' Compensation Court and to the employer, fixing the date on which it is proposed that such cancellation be effective. Such notices shall contain a brief statement of the insurer's reasons for cancellation and shall be given to the compensation court and the employer as provided in subsection (3) of this section. No such cancellation shall be effective until thirty days after the giving of such notices, except that such cancellation may be effective ten days after the giving of such notices if such cancellation is based on (i) nonpayment of premium, (ii) failure of the employer to reimburse deductible losses as required under the contract or policy, or (iii) failure of the employer, if covered pursuant to section 48-146.01, to comply with sections 48-443 to 48-445. If the employer has secured insurance with another insurer which would cause double coverage, such cancellation shall be made effective as of the effective date of such other insurance.

(b) In any case when the employer gives notice to the insurer that he or she intends to cancel a contract or policy of insurance issued by the insurer under the Nebraska Workers' Compensation Act within the contract or policy period, the insurer shall immediately give notice to the Nebraska Workers' Compensation Court that such contract or policy is being canceled by the employer and the date on which it is proposed that such cancellation be effective. Such notice shall be given to the compensation court as provided in subsection (3) of this section. No such cancellation shall be effective until ten days after the giving of such notice. If the employer has secured insurance with another insurer which would cause double coverage, such cancellation shall be made effective as of the effective date of such other insurance.

(2) If an insurer intends to nonrenew a contract or policy of insurance issued under the Nebraska Workers' Compensation Act, the insurer shall give notice to such effect to the Nebraska Workers' Compensation Court and to the employer. Such notices shall contain a brief statement of the insurer's reasons for nonrenewal and shall be given to the compensation court and the employer as provided in subsection (3) of this section. No such nonrenewal shall be effective until thirty days after the giving of such notices. This subsection shall not apply to contracts or policies of insurance issued pursuant to section 48-146.01. (1) Notwithstanding policy provisions that stipulate a workers' compensation insurance policy to be a contract with a fixed term of coverage that expires at the end of the term, coverage under a workers' compensation insurance policy shall continue in full force and effect until notice is given in accordance with this section.

(2) No cancellation of a workers' compensation insurance policy within the policy period shall be effective unless notice of the cancellation is given by the workers' compensation insurer to the Nebraska Workers' Compensation Court and to the employer. No such cancellation shall be effective until thirty days after the giving of such notices, except that the cancellation may be effective ten days after the giving of such notices if such cancellation is based on (a) notice from the employer to the insurer to cancel the policy, (b) nonpayment of premium due the insurer under any policy written by the insurer for the employer, (c) failure of the employer to reimburse deductible losses as required under any policy written by the insurer for the employer, or (d) failure of the employer, if covered pursuant to section 48-146.01, to comply with sections 48-443 to 48-445.

(3) No workers' compensation insurance policy shall expire or lapse at the end of the policy period unless notice of nonrenewal is given by the workers' compensation insurer to the compensation court and to the employer. No workers' compensation insurance policy shall expire or lapse until thirty days after the giving of such notices, except that a policy may expire or lapse ten days after the giving of such notices if the nonrenewal is based on (a) notice from the employer to the insurer to not renew the policy, (b) nonpayment of premium due the insurer under any policy written by the insurer for the employer, (c) failure of the employer to reimburse deductible losses as required under any policy written by the insurer for the employer, or (d) failure of the employer, if covered pursuant to section 48-146.01, to comply with sections 48-443 to 48-445.

(4) Notwithstanding other provisions of this section, if the employer has secured workers' compensation insurance coverage with another

workers' compensation insurer, then the cancellation or nonrenewal shall be effective as of the effective date of such other insurance coverage.

(5) The notices required by this section shall state the reason for the cancellation or nonrenewal of the policy.

~~(3)~~ (6) The notices required by this section shall be provided in writing and shall be deemed given upon the mailing of such notices by certified mail, except that notices from insurers to the ~~Nebraska Workers' Compensation Court~~ compensation court may be provided by electronic means if such means is approved by the compensation court. If notice is provided by electronic means pursuant to such an approval, it shall be deemed given upon receipt by the compensation court.

Sec. 9. Section 48-144.04, Reissue Revised Statutes of Nebraska, is amended to read:

48-144.04. Any employer, workers' compensation insurer, or risk management pool, ~~or insurance carrier~~ who fails, neglects, or refuses to file any report required of him or her by the Nebraska Workers' Compensation Court shall be guilty of a Class II misdemeanor for each such failure, neglect, or refusal. It shall be the duty of the Attorney General to act as attorney for the state. In addition to the penalty, where an employer, workers' compensation insurer, or risk management pool, ~~or insurance carrier~~ has been given notice, or the employer, workers' compensation insurer, or risk management pool, ~~or the insurance carrier~~ has knowledge, of any injury or death of an employee and fails, neglects, or refuses to file a report thereof, the limitations in section 48-137 and for injuries occurring before December 1, 1997, the limitations in section 48-128 shall not begin to run against the claim of the injured employee or his or her dependents entitled to compensation or against the State of Nebraska on behalf of the Workers' Compensation Trust Fund, or in favor of either the employer, workers' compensation insurer, or risk management pool, ~~or the insurance carrier~~ until such report shall have been furnished as required by the compensation court.

Sec. 10. Section 48-145, Reissue Revised Statutes of Nebraska, is amended to read:

48-145. To secure the payment of compensation under the Nebraska Workers' Compensation Act:

(1) Every employer in the occupations described in section 48-106, except the State of Nebraska and any governmental agency created by the state, shall either (a) insure and keep insured its liability under such act in some corporation, association, or organization authorized and licensed to transact the business of workers' compensation insurance in this state, (b) in the case of an employer who is a lessor of one or more commercial vehicles leased to a self-insured motor carrier, be a party to an effective agreement with the self-insured motor carrier under section 48-115.02, (c) be a member of a risk management pool authorized and providing group self-insurance of workers' compensation liability pursuant to the Intergovernmental Risk Management Act, or (d) with approval of the Nebraska Workers' Compensation Court, self-insure its workers' compensation liability.

An employer seeking approval to self-insure shall make application to the compensation court in the form and manner as the compensation court may prescribe, meet such minimum standards as the compensation court shall adopt and promulgate by rule and regulation, and furnish to the compensation court satisfactory proof of financial ability to pay direct the compensation in the amount and manner when due as provided for in the Nebraska Workers' Compensation Act. The compensation court may by rule and regulation require the deposit of an acceptable security, indemnity, trust, or bond to secure the payment of compensation liabilities as they are incurred. The agreement or document creating a trust for use under this section shall contain a provision that the trust may only be terminated upon the consent and approval of the compensation court. Any beneficial interest in the trust principal shall be only for the benefit of the past or present employees of the self-insurer and any persons to whom the self-insurer has agreed to pay benefits under subdivision (11) of section 48-115 and section 48-115.02. Any limitation on the termination of a trust and all other restrictions on the ownership or transfer of beneficial interest in the trust assets contained in such agreement or document creating the trust shall be enforceable, except that any limitation or restriction shall be enforceable only if authorized and approved by the compensation court and specifically delineated in the agreement or document.

Notwithstanding any other provision of the Nebraska Workers' Compensation Act, a three-judge panel of the compensation court may, after notice and hearing, suspend or revoke approval as a self-insurer if it finds that the financial condition of the self-insurer or the failure of the self-insurer to comply with an obligation under the act poses a serious threat

to the public health, safety, or welfare. Appeal from such suspension or revocation shall be in accordance with section 48-185. No such appeal shall operate as a supersedeas unless the self-insurer executes to the compensation court a bond with one or more sureties authorized to do business within the State of Nebraska in an amount determined by the three-judge panel to be sufficient to satisfy the obligations of the self-insurer under the act;

(2) An approved self-insurer shall furnish to the State Treasurer an annual amount equal to two and one-half percent of the prospective loss costs for like employment but in no event less than twenty-five dollars. Prospective loss costs is defined in section 48-151. The compensation court is the sole judge as to the prospective loss costs that shall be used. All money which a self-insurer is required to pay to the State Treasurer, under this subdivision, shall be computed and tabulated under oath as of January 1 and paid to the State Treasurer immediately thereafter. The Nebraska Workers' Compensation Court, any judge thereof, or any representative of the compensation court is empowered to audit any such payroll at its discretion. All money paid by a self-insurer under this subdivision shall be credited to the General Fund; and

(3) Every employer who fails, neglects, or refuses to comply with the conditions set forth in subdivision (1) or (2) of this section shall be required to respond in damages to an employee for personal injuries, or when personal injuries result in the death of an employee, then to his or her dependents; and

(4) Any security, indemnity, trust, or bond provided by a self-insurer pursuant to subdivision (2) of this section shall be deemed a surety for the purposes of the payment of valid claims of the self-insurer's employees and the persons to whom the self-insurer has agreed to pay benefits under the Nebraska Workers' Compensation Act pursuant to subdivision (11) of section 48-115 and section 48-115.02 as generally provided in the act.

Sec. 11. Section 48-146, Reissue Revised Statutes of Nebraska, is amended to read:

48-146. ~~(1)~~ No policy of insurance against liability arising under the Nebraska Workers' Compensation Act shall be issued and no agreement pursuant to section 44-4304 providing group self-insurance coverage of workers' compensation liability by a risk management pool shall have any force or effect unless it contains the agreement of the workers' compensation insurer or risk management pool that it will promptly pay to the person entitled to the same all benefits conferred by such act, and all installments of the compensation that may be awarded or agreed upon, and that the obligation shall not be affected by the insolvency or bankruptcy of the employer or his or her estate or discharge therein or by any default of the insured after the injury, or by any default in the giving of any notice required by such policy, or otherwise. Such agreement shall be construed to be a direct promise by the workers' compensation insurer or risk management pool to the person entitled to compensation enforceable in his or her name. ~~Every~~ Each workers' compensation insurance policy for the insurance of the compensation herein provided, or against liability thereof, or agreement forming any and each agreement forming a risk management pool shall be deemed to be made subject to the Nebraska Workers' Compensation Act. No corporation, association, or organization shall enter into any such policy of insurance a workers' compensation insurance policy unless copies of such forms have been filed with and approved by the Department of Insurance. All policies insuring the payment of compensation under the Nebraska Workers' Compensation Act Each workers' compensation insurance policy and agreements each agreement pursuant to section 44-4304 providing group self-insurance coverage of workers' compensation liability by a risk management pool shall contain a clause to the effect ~~(a)~~ (1) that as between the employer and the workers' compensation insurer or risk management pool the notice to or knowledge of the occurrence of the injury on the part of the insured shall be deemed notice or knowledge, as the case may be, on the part of the insurer or risk management pool, ~~(b)~~ (2) that jurisdiction of the insured for the purpose of such act shall be jurisdiction of the insurer or risk management pool, and ~~(c)~~ (3) that the insurer or risk management pool shall in all things be bound by the awards, judgments, or decrees rendered against such insured. All such policies insuring the payment of compensation Each workers' compensation insurance policy and all such agreements each agreement providing such group self-insurance coverage shall include within their its terms the payment of compensation to all employees, officers, or workers who are within the scope and purview of the Nebraska Workers' Compensation Act.

~~(2)~~ Any security, indemnity, trust, or bond provided by a self-insurer pursuant to section 48-145 shall be deemed a surety for the purposes of the payment of valid claims of the self-insurer's employees and

the persons to whom the self-insurer has agreed to pay benefits under the Nebraska Workers' Compensation Act pursuant to subdivision (11) of section 48-115 and section 48-115.02 as generally provided in this chapter.

Sec. 12. Section 48-146.03, Reissue Revised Statutes of Nebraska, is amended to read:

48-146.03. (1) Each workers' compensation insurance policy issued by an insurer pursuant to the Nebraska Workers' Compensation Act:

(a) Shall offer, at the option of the insured employer, a deductible for medical benefits in the amount of five hundred dollars to two thousand five hundred dollars per claim in increments of five hundred dollars; or

(b) May offer, at the option of the insured employer and the workers' compensation insurer, a deductible for all amounts paid by the insurer as long as the deductible is not more than forty percent of the insured employer's otherwise applicable annual workers' compensation insurance premium at rates approved for the insurer but not less than fifty thousand dollars.

The insured employer, if choosing to exercise one of such options listed in this subsection, may choose only one of the amounts as the deductible. The provisions of this section shall be fully disclosed to each prospective purchaser in writing.

(2) The deductible form shall provide that the workers' compensation insurer shall remain liable for and shall pay the entire cost of medical benefits for each claim directly to the medical provider, shall remain liable for and pay the entire cost of benefits, claims, and expenses as required by the policy irrespective of the deductible provision, and shall then be reimbursed by the employer for any deductible amounts paid by the workers' compensation insurer. The employer shall be liable for reimbursement up to the limit of the deductible.

(3) ~~A~~ A workers' compensation insurer shall not be required to offer a deductible if, as a result of a credit investigation, the insurer determines that the employer does not have the financial ability to be responsible for the payment of deductible amounts.

(4) ~~The~~ A workers' compensation insurer shall service and, if necessary, defend all claims that arise during the policy period, including those claims payable in whole or in part from the deductible amount, and shall make such reports to the compensation court of payments made, including payments made under the deductible provisions, as may be required by the compensation court.

(5) A person who is employed by a policyholder which chooses to exercise the option of a deductible policy shall not be required to pay any of the deductible amount, and any such policyholder shall not require or attempt to require the employee to give up his or her right of selection of physician set out in section 48-120. Any violation of this subsection shall be a Class II misdemeanor.

Sec. 13. Section 48-155.01, Reissue Revised Statutes of Nebraska, is amended to read:

48-155.01. ~~When any judge of the Nebraska Workers' Compensation Court shall be disqualified from acting in any case or matter before him or her, is temporarily absent from the state, or shall be temporarily unable to act in any cause or matter before him or her because of sickness or other emergency, the Governor may appoint a competent and disinterested person to act in place of such judge in such case or other matter during such disqualification, absence, or emergency. The person so appointed shall possess the same powers and be subject to the duties, restrictions, and liabilities as are prescribed by law respecting judges of the compensation court. The Governor may, in his or her discretion, by a single order, appoint some competent and disinterested person to act as acting judge in the place of any judge of the compensation court during all such disqualifications, absences, and emergencies. Such appointment shall be for a period of two years from July 1 of each odd-numbered year. The acting judge shall be paid a salary per diem at the same rate and in the same manner as the regularly appointed judges and expenses as provided in sections 81-1174 to 81-1177 which shall be paid by the compensation court in the same manner as other compensation court expenses, except that such acting judge shall not pay into the Nebraska Retirement Fund for Judges nor be eligible for retirement benefits under the Judges Retirement Act. The acting judge shall be subject to call by the presiding judge. (1) The Governor may, by single order, appoint a qualified person meeting the eligibility requirements of section 48-153.01 to serve as acting judge of the Nebraska Workers' Compensation Court. Such appointment shall be for a period of two years. In determining whether a person is qualified to serve as acting judge of the compensation court, the Governor shall consider the person's knowledge of the law,~~

experience in the legal system, intellect, capacity for fairness, probity, temperament, and industry. The acting judge shall be subject to call by the presiding judge of the compensation court, who may assign the acting judge to temporary duty in order to (a) sit in the compensation court to relieve a congested docket of the court or to prevent the docket from becoming congested or (b) sit for a judge of the court who may be incapacitated or absent for any reason. An acting judge appointed and assigned pursuant to this section shall possess the same powers and be subject to the duties, restrictions, and liabilities as are prescribed by law respecting judges of the compensation court, except that an acting judge is not prohibited from practicing law as provided in section 7-111.

(2) The acting judge shall receive for each day of temporary duty an amount equal to one-twentieth of the monthly salary he or she would receive if he or she were a regularly appointed judge of the compensation court and shall be reimbursed for his or her expenses while on temporary duty at the same rate as provided in sections 81-1174 to 81-1177. Within fifteen days following completion of a temporary duty assignment, the acting judge shall submit to the presiding judge of the compensation court a request for payment or reimbursement for services rendered and expenses incurred during such temporary duty assignment. Upon receipt of such request, the presiding judge shall endorse on the request that the services were performed and expenses incurred pursuant to an assignment of the presiding judge of the compensation court and file such request with the proper authority for payment.

(3) The acting judge shall not pay into the Nebraska Retirement Fund for Judges nor be eligible for retirement benefits under the Judges Retirement Act.

Sec. 14. Section 48-178, Reissue Revised Statutes of Nebraska, is amended to read:

48-178. The judge shall make such findings and orders, awards, or judgments as the Nebraska Workers' Compensation Court or judge is authorized by law to make. Such findings, orders, awards, and judgments shall be signed by the judge before whom such proceedings were had. When proceedings are had before a judge of the compensation court, his or her findings, orders, awards, and judgments shall be conclusive upon all parties at interest unless reversed or modified upon review or appeal as hereinafter provided. A shorthand record or tape recording shall be made of all testimony and evidence submitted in such proceedings. The compensation court or judge thereof, at the party's expense, may appoint a court reporter or may direct a party to furnish a court reporter to be present and report or, by adequate mechanical means, to record and, if necessary, transcribe proceedings of any hearing. The charges for attendance shall be paid initially to the reporter by the employer or, if insured, by the employer's ~~insurance carrier~~ workers' compensation insurer. The charges shall be taxed as costs and the party initially paying the expense shall be reimbursed by the party or parties taxed with the costs. The compensation court or judge thereof may award and tax such costs and apportion the same between the parties or may order the compensation court to pay such costs as in its discretion it may think right and equitable. If the expense is unpaid, the expense shall be paid by the party or parties taxed with the costs or may be paid by the compensation court. The reporter shall faithfully and accurately report or record the proceedings.

Sec. 15. Section 48-178.01, Reissue Revised Statutes of Nebraska, is amended to read:

48-178.01. Whenever any petition is filed and the claimant's right to compensation is not in issue, but the issue of liability is raised as between an employer, a ~~carrier~~ workers' compensation insurer, or a risk management pool or between two or more employers, ~~carriers, or pools~~ workers' compensation insurers, or risk management pools, the Nebraska Workers' Compensation Court may order payment of compensation to be made immediately by one or more of such employers, ~~carriers, or pools~~ workers' compensation insurers, or risk management pools. When the issue is finally resolved, an employer, ~~carrier, or pool~~ workers' compensation insurer, or risk management pool held not liable shall be reimbursed for any such payments by the employer, ~~carrier, or risk management pool~~ workers' compensation insurer, or risk management pool held liable.

Sec. 16. Section 48-1,117, Reissue Revised Statutes of Nebraska, is amended to read:

48-1,117. The Department of Administrative Services shall furnish monthly to the Nebraska Workers' Compensation Court a statement of the Compensation Court Cash Fund setting forth the balance in the fund as of the first day of the preceding month, the income and its sources, the payments from the fund in itemized form, and the balance in the fund on hand as of the last day of the preceding month.

At the close of business on June 30 of any year, if the balance in the fund is equal to or exceeds three times the sum expended and encumbered in the fiscal year then ending, the contributions to the fund pursuant to sections 48-1,113 and 48-1,114 shall abate for the calendar year next ensuing and only for that year and the compensation court shall notify all self-insurers and the Director of Insurance who shall notify all workers' compensation ~~insurance carriers~~ insurers and risk management pools of such abatement and of the date when such contributions shall resume. No abatement shall ever extend beyond one year.

Sec. 17. Original sections 48-115, 48-118, 48-120, 48-125, 48-126, 48-136, 48-144.01, 48-144.03, 48-144.04, 48-145, 48-146, 48-146.03, 48-155.01, 48-178, 48-178.01, and 48-1,117, Reissue Revised Statutes of Nebraska, are repealed.